

**Date:** September 8, 2015

**To:** Thomas J. Bonfield, City Manager  
**Through:** W. Bowman Ferguson, Deputy City Manager  
**From:** Marvin G. Williams, Director of Public Works  
**Subject:** Agenda Item – Public Hearing to Consider the Ordering of Improvements under the Enabling Act Authority

Curb, Gutter and Paving, Water Main, and Water and Sewer Laterals on Omah Street from the North Property Line of PIN 0832-17-02-3089 North to West Carver Street

### **Executive Summary**

The City Council, at its Work Session of May 7, 2015, directed the Administration to prepare an agenda item to hold a public hearing to consider the ordering of the subject improvements for the northern end of Omah Street under the Enabling Act Authority, with the individual properties to be assessed a portion of the costs upon completion of the improvements, as outlined in the assessment rate schedule in effect at the time of the ordering. In order to do that, it is necessary for City Council to hold a public hearing and order the improvements in accordance with Section 78 of the Charter of the City of Durham.

Pursuant to the Resolution Authorizing the City Manager or Designee to Set Public Hearings and to Declare the Adoption of Resolutions of Intent (Resolution 9709), the City Manager set the public hearing on the proposed improvements to be held at 7:00 PM, October 5, 2015, in the Council Chamber of City Hall.

### **Recommendation**

The Public Works Department recommends that City Council adopt a preliminary resolution for the proposed improvements, conduct a public hearing to consider ordering the improvements, and adopt a final resolution ordering the improvements of curb, gutter and paving, water main, and water and sewer laterals on Omah Street from the north property line of PIN 0832-17-02-3089 north to West Carver Street.

### **Background**

Over the past eighteen (18) years, the Department of Public Works has received numerous inquiries concerning the paving of Omah Street from the end of existing paving north to West Carver Street. Four (4) petitions have been issued, including the latest petition issued April 30, 2014. To date, none of the petitions have been returned as sufficient, and in the

case of the current active petition, the sponsor is struggling to obtain enough signatures to achieve overall sufficiency in this one as well. While the sponsor has obtained a majority of the property owner's signatures, they do not represent the majority of the road frontage involved. A majority (greater than 50%) must be achieved in both areas for a petition to be deemed sufficient and presented to City Council for consideration. Unfortunately, to date the sponsor is short on the frontage sufficiency by just under five (5) feet. This matter was brought before City Council at the Work Session on May 7, 2015, at which time the administration was directed to prepare an agenda item to hold a public hearing to consider ordering the improvements under the City's Enabling Act Authority.

In Accordance with Section 78 of the Charter of the City of Durham, City Council is authorized and empowered to adopt a resolution ordering improvements without a petition from the abutting property owners and to assess such properties for the improvements. This authority is generally exercised when it is in the interest of the public good.

### **Issues and Analysis**

Section 78 of the Charter of the City of Durham dictates that a fixed time and place be set to hold a public hearing to determine whether the improvement shall be made. The public hearing for the subject improvements has been set for October 5th, 2015.

The costs to complete the improvements will be paid through a combination of assessments against properties within the limits of the improvements and funding provided by the City.

### **Alternatives**

City Council can choose not to order the improvements.

### **Financial Impacts**

Holding a public hearing and ordering of the subject improvements will have no immediate financial impact, but these are necessary steps in the process of making improvements and assessing abutting properties for the improvements. Ultimately the City will be responsible for a portion of the cost of these improvements. Based on current construction costs, the estimated cost to curb, gutter, and pave the existing crushed stone portion of Omah Street would be approximately \$220,000.00, while the cost of the water main extension is estimated to be an additional \$30,000.00. However, the actual costs could vary drastically due to the time it will take to design and then construct the project once funding becomes available in future fiscal years. Levied assessments against properties on this portion of Omah Street would result in the re-couping of approximately \$57,000.00, based on the assessment rates of \$45.00 per front foot for curb, gutter, and paving, and \$27.00 per front foot for the water main.

### **SBDE Summary**

N/A

MGW/lca